

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAMIE L. G.,

Plaintiff,

V.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. C22-5184 RSM

ORDER AFFIRMING AND DISMISSING THE CASE

Plaintiff seeks review of the denial of her application for Period of Disability and Disability Insurance Benefits. Plaintiff contends the ALJ erred by rejecting her symptom testimony, lay witness testimony, and the medical opinions of Dr. Elinor Jordan, Dr. Edward Case, and Dr. John Robinson. Dkt. 9. As discussed below, the Court **AFFIRMS** the Commissioner's final decision and **DISMISSES** the case with prejudice.

BACKGROUND

Plaintiff is 36 years old, has at least a high school education, and has no past relevant work. Administrative Record (“AR”) 25. On December 16, 2017, Plaintiff applied for benefits, alleging disability as of November 30, 2017. AR 60, 72. Plaintiff’s applications were denied initially and on reconsideration. AR 69, 82. After the ALJ conducted a hearing on December 16, 2020, the ALJ issued a decision finding Plaintiff not disabled. AR 15–27.

DISCUSSION

The Court may reverse the ALJ's decision only if it is legally erroneous or not supported by substantial evidence of record. *Ford v. Saul*, 950 F.3d 1141, 1154 (9th Cir. 2020). The Court must examine the record but cannot reweigh the evidence or substitute its judgment for the ALJ's. *Thomas v. Barnhart*, 278 F.3d 947, 954 (9th Cir. 2002). When evidence is susceptible to more than one interpretation, the Court must uphold the ALJ's interpretation if rational. *Ford*, 950 F.3d at 1154. Also, the Court "may not reverse an ALJ's decision on account of an error that is harmless." *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012).

A. Plaintiff's Testimony

Plaintiff testified she is unable to work primarily because of her depression, which fluctuates "multiple times throughout the year." AR 40–41. Plaintiff testified that due to her depression, she sometimes cannot perform household chores, take care of her child, do anything outside the house, or eat. AR 41, 45, 52–53.

Where, as here, an ALJ determines a claimant has presented objective medical evidence establishing underlying impairments that could cause the symptoms alleged, and there is no affirmative evidence of malingering, the ALJ can only discount the claimant's testimony as to symptom severity by providing "specific, clear, and convincing" reasons supported by substantial evidence. *Trevizo v. Berryhill*, 871 F.3d 664, 678 (9th Cir. 2017).

In this case, the ALJ reasonably rejected Plaintiff's testimony due to its inconsistency with the objective medical evidence showing largely normal mental status examinations and her symptoms well managed with medication. AR 22–23, 423–46, 455–502. For example, though Dr. Case found Plaintiff to have an anxious affect, she was also often found to have normal appetite and energy, alert and oriented, with intact memory, cognitive processing, and normal

1 attention and concentration.¹ Dr. Case also often assessed Plaintiff's mental impairments as
 2 "improving" or "unchanged," and noted that she would have "some" or "fair" responses to her
 3 medication.² There were appointments when Dr. Case wrote Plaintiff was "overall doing well"
 4 or "doing better." AR 443, 457. In the instances where Plaintiff's condition was noted to have
 5 worsened, change in her medication dosage was often the reason. For example, in a June 2020
 6 appointment, Dr. Case assessed Plaintiff was "[m]ildly worse than previous visit," but also noted
 7 Plaintiff "had a lot of withdrawal issues" and "is frequently changing doses of her medication."
 8 AR 495. Similarly, in a November 2020 appointment, Dr. Case assessed Plaintiff was
 9 "Moderately worse than previous visit," but also noted Plaintiff had reduced her medication on
 10 her own, that she is "worse" when she is on less medication, and that Plaintiff needs to maintain
 11 her medication and stay with her treatment. AR 500–01. Considering Plaintiff's treatment
 12 records consistently showed largely normal mental status exam findings and Plaintiff's own
 13 changes in her medication dosage—rather than at the instruction of Dr. Case—worsened her
 14 symptoms, the ALJ could reasonably find Plaintiff's testimony as to the severity and intensity of
 15 her symptoms inconsistent with the objective medical evidence. Accordingly, the Court finds
 16 the ALJ did not err in rejecting Plaintiff's symptom testimony.

17 B. Lay Witness Testimony

18 In a function report, Plaintiff's mother wrote that Plaintiff is able to perform her chores at
 19 home, but does not leave the house, has a hard time making decisions, and is unable to focus on
 20 and complete complex tasks. *See* AR 273–80

21 Plaintiff contends the ALJ failed to properly evaluate the testimony, presumably because

22
 23¹ AR 426–27, 429–30, 432–33, 435–36, 438–39, 441–42, 444–45, 455–56, 464–65, 467–68, 476–77, 479–80, 485–86, 491–92, 494–502.

² See 428, 431, 434, 437, 440, 443, 446, 457, 460, 463, 466, 469, 472, 475, 478, 481, 484, 487, 490, 493.

1 the ALJ did not explicitly accept or reject the testimony, only stating that it was “supportive of
 2 the residual functional capacity.” *See* Dkt. 9, at 7–8; AR 24. In contrast, the Commissioner
 3 argues that the new regulations “do not include any articulation requirement for nonmedical
 4 source statement.” *See* Dkt. 10 at 13 (citing 20 C.F.R. § 404.1520c(d)).

5 The Court disagrees with the Commissioner’s argument that an ALJ need not address
 6 nonmedical testimony at all under the new regulations. The new regulations do not provide that
 7 an ALJ is not required to evaluate nonmedical testimony—rather, the ALJ is not required to
 8 evaluate nonmedical testimony, such as the one here, using the required factors for when an ALJ
 9 evaluates a medical opinion. *See* § 404.1520c(c)(1)–(5).

10 However, the Court does agree with the Commissioner’s argument that even if the ALJ
 11 may have erred by failing to explicitly reject the lay witness testimony, such error would be
 12 harmless. *See* Dkt. 10 at 15. When lay witness testimony includes similar limitations as the
 13 claimant’s testimony, an “ALJ’s well-supported reasons for rejecting the claimant’s testimony
 14 apply equally well to the lay witness testimony.” *See Molina v. Astrue*, 674 F.3d 1104, 1117 (9th
 15 Cir. 2012). Here, Plaintiff’s mother’s testimony about Plaintiff’s restrictions substantially
 16 mirrors—at times, even less severe than—the contents of Plaintiff’s testimony. AR 273–80.
 17 Because the Court found that the ALJ properly rejected Plaintiff’s testimony due to its
 18 inconsistency with objective medical evidence, it follows that this same reason is sufficient to
 19 properly reject the lay witness testimony. *See Molina*, 674 F.3d at 1117.

20 **C. Medical Opinion Evidence**

21 Plaintiff contends the ALJ erred in rejecting the opinions of Dr. Elinor Jordan, Dr.
 22 Edward Case, and Dr. John Robinson. Dkt. 9, at 8–9.

23 **1. Dr. Jordan and Dr. Case**

1 Both Dr. Jordan and Dr. Case completed a mental residual functional capacity assessment
2 form prepared by Plaintiff's counsel. AR 503–13. Both opined that Plaintiff was at least
3 markedly limited in her ability to maintain attention and concentration for extended periods, and
4 extremely limited in her ability to perform activities within a schedule, maintain regular
5 attendance, and be punctual within customary tolerances. *See* AR 505, 511. Dr. Jordan also
6 opined that based on her impairments, Plaintiff would miss 10 to 15 days of work each month.
7 AR 508.

8 The ALJ rejected their opinions for several reasons, at least one of which was valid. In
9 *Woods v. Kijakazi*, 32 F.4th 785 (9th Cir. 2022), the Court of Appeals held the regulations
10 governing applications filed after March 27, 2017, supplant the hierarchy governing the weight
11 an ALJ must give medical opinions and the requirement the ALJ provide specific and legitimate
12 reasons to *reject a doctor's opinion*. Under the new regulations, the ALJ considers the
13 persuasiveness of the medical opinion using five factors (supportability, consistency, relationship
14 with claimant, specialization, and other), with supportability and consistency being the two most
15 important factors. Supportability means the extent to which a medical source supports the
16 medical opinion by explaining the “relevant … objective medical evidence.” 20 C.F.R. §
17 404.1520c(c)(1). Consistency means the extent to which a medical opinion is “consistent … with
18 the evidence from other medical sources and nonmedical sources in the claim.” §
19 404.1520c(c)(2). The ALJ’s decision must explain how the ALJ considered the factors of
20 supportability and consistency, 20 C.F.R. § 404.920c(b), and must be supported by substantial
21 evidence. An ALJ cannot reject a doctor’s opinion as unsupported or inconsistent without
22 providing an explanation supported by substantial evidence. *Woods*, 32 F.4th at 792. The
23 agency must “articulate … how persuasive” it finds “all of the medical opinions” from each

1 doctor or other source, 20 C.F.R. § 404.1520c(b), and “explain how [it] considered the
 2 supportability and consistency factors” in reaching these findings, *id.* § 404.1520c(b)(2).

3 In this case, the ALJ reasonably discounted Dr. Case’s and Dr. Jordan’s opinions for
 4 being inconsistent with Plaintiff’s “fairly minor” mental status examination findings. *See* AR 25.
 5 As discussed above, Dr. Case often observed Plaintiff as alert and oriented, with intact memory,
 6 cognitive processing, and normal attention and concentration. Dr. Case also consistently
 7 assessed Plaintiff’s mental impairments as “improving” or “unchanged,” that she would have
 8 “some” or “fair” responses to her medication, and that Plaintiff’s condition would worsen due to
 9 Plaintiff’s own changes in her medication dosages. Given these findings, the ALJ could
 10 reasonably find the medical opinions of both doctors inconsistent with medical evidence in
 11 Plaintiff’s record. *See* 20 C.F.R. §§ 404.1520c(c)(1), (c)(2). Accordingly, the Court finds the
 12 ALJ did not err in rejecting the opinions of Dr. Jordan and Dr. Case.

13 As the ALJ has provided a valid reason, supported by substantial evidence, to reject the
 14 opinions of Dr. Jordan and Dr. Case, the Court does not need to further evaluate whether the ALJ
 15 erred in discounting their opinions for other reasons. *See Carmickle v. Comm’r, Soc. Sec.*
 16 *Admin.*, 533 F.3d 1155, 1162 (9th Cir. 2008) (including an erroneous reason among other
 17 reasons to discount a claimant’s credibility does not negate the validity of the overall credibility
 18 determination and is at most harmless error where an ALJ provides other reasons that are
 19 supported by substantial evidence).

20 **2. Dr. John Robinson**

21 Dr. Robinson completed a mental residual functional capacity assessment for Plaintiff in
 22 February 2018 where he rated Plaintiff’s ability to perform sustained work activities and then
 23 provided a narrative discussion to describe “how the evidence supports each of the ALJ’s

conclusion.” *See* AR 65–67. In performing activities within a schedule, maintaining regular attendance, and being punctual within customary tolerances, Dr. Robinson found Plaintiff moderately limited. AR 66. In the narrative discussion, he wrote, “clmts mental health limits reduce ability to maintain attendance on a sustained basis. clmt however is able to keep appointments.” AR 66. As to the ability to interact appropriately with the general public, Dr. Robinson found Plaintiff also moderately limited. AR 67. In the narrative discussion, he wrote, “clmts mental health limits reduce ability to be in continual with the public and co-workers. If these contacts are kept brief and superficial clmt can persist.” *Id.* Finally, as to Plaintiff’s individual adaption limitations, Dr. Robinson wrote, “clmt mental health limits reduce ability to adapt to a highly competitive work environment. If given proper time and instruction clmt can adapt.” *Id.*

In this case, the ALJ properly rejected Dr. Robinson’s opinion because it was “rather vague and does not provide an adequate description of [Plaintiff’s] mental health functioning.” AR 24. Dr. Robinson’s narrative discussions generally state that Plaintiff’s mental health impairments prevent her from basic work activities, but do not include any “supporting explanations” to support his opinions, as necessary under the new regulations. *See* 20 C.F.R. § 404.1520c(c)(1). The ALJ, therefore, could reasonably find Dr. Robinson’s opinion lacking in supportability, and thus properly reject it. Accordingly, the Court finds the ALJ did not err in rejecting Dr. Robinson’s opinion.

CONCLUSION

For the foregoing reasons, the Commissioner’s final decision is **AFFIRMED** and this case is **DISMISSED** with prejudice.

1 DATED this 18th day of August, 2022.
2
3



4 RICARDO S. MARTINEZ
5 CHIEF UNITED STATES DISTRICT JUDGE
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23